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November 9, 2015

VIA ECF

Hon. Tonianne J. Bongiovanni, U.S.M.J.
U. S. District Court of New Jersey
Clarkson S. Fisher Building & U.S. Courthouse
402 East State Street
Trenton, NJ 08608

Re: Old Bridge Municipal Utilities Authority v. Westchester Fire Insurance Company, et al.
Civ. Action No. 3:12-cv-6232

Dear Judge Bongiovanni:

This office represents Defendant Westchester Fire Insurance Company ("Westchester") in the above-captioned matter. I write in connection with the Court's order that the parties report to the Court with a written status regarding settlement discussions.

Since our last telephonic status conference with the Court on October 8, 2015, I received a letter from Mr. Granata on behalf of Plaintiff, providing new and much higher defense cost figures and making a new 100% settlement demand off the updated figures. The letter stated that the demand, "if not accepted is deemed to be withdrawn." By making a full demand and providing for its withdrawal if not accepted in full, Plaintiff has once again demonstrated its unwillingness to engage in a meaningful settlement negotiation, a problem that has continuously plagued the settlement discussions. Thus, while Westchester continues to be interested in reaching a settlement, it unfortunately appears that settlement discussions will not be fruitful at this time.

As a result, Westchester now believes that the matter should proceed to cross-motions for partial summary judgment regarding: (1) whether the underlying claim is an "interrelated wrongful act" under the Westchester policy and deemed to have been first made prior to the Westchester policy period; and (2) whether the prior or pending litigation/proceeding applies. Based on Mr. Granata's statements during the October 8, 2015 status conference, it is my understanding that Plaintiff favors proceeding to summary judgment motion practice as well.



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While I await the Court's decision concerning the parties engaging in summary judgment practice, I am available at the Court's convenience should there be any issues that need to be addressed. I thank Your Honor for your attention to this matter.

Respectfully submitted,

A handwritten signature in cursive script that reads "Marianne May".

Marianne May

MM/Imm
cc: Louis E. Granata, Esq. (via ECF)